

Message Text

PAGE 01 STATE 048928
ORIGIN NEA-10

INFO OCT-01 ISO-00 DHA-02 /013 R

DRAFTED BY NEA/IRN:MLGREENE:MRC
APPROVED BY NEA/IRN:CWNAAS
-----050241Z 032471 /66
P 042227Z MAR 77
FM SECSTATE WASHDC
TO AMEMBASSY TEHRAN PRIORITY

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FROM NEA/IRN

E.O. 11652: N/A

TAGS: SHUM, IR

SUBJECT: HUMAN RIGHTS REPORTING

REF: (A) TEHRAN 1987; (B) TEHRAN 1971

1. WE HAD EARLIER PROVIDED TALKING POINTS FOR DEPUTY SECRETARY'S USE ON MARCH 7 AND HAVE SINCE SUPPLEMENTED THOSE WITH MAIN POINTS IN REFTEL B. THIS SAME LINE IS IMPORTANT PORTION OF IRAN PAPER FOR USE IN DEPARTMENT'S HUMAN RIGHTS POLICY REVIEW (SEE NAAS-MIKLOS LETTER OF FEBRUARY 24).

2. TEXT OF HUMAN RIGHTS PAPER FOR USE IN ANNUAL SECURITY ASSISTANCE PRESENTATION TO CONGRESS (REFTEL A) FOLLOWS CLOSELY TEXT OF EARLIER CONGRESSIONAL SUBMISSIONS, INCLUDING MOST RECENTLY REPORT WHICH HOUSE PRINTED AT END OF 1976 ALONG WITH THOSE FOR FIVE OTHER COUNTRIES. TEXT OF NEW SUBMISSION FOLLOWS:
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3. POLITICAL SITUATION - FOR THE PAST HALF CENTURY IRANIAN LEADERSHIP HAS BEEN DEDICATED TO THE CREATION OF A MODERN NATION STATE AGAINST A BACKDROP OF ENTRENCHED TRADITIONAL CONSERVATISM, POVERTY, AND ILLITERACY.

DURING THIS PERIOD IRAN HAS CONFRONTED SEVERE CHALLENGES TO ITS GOVERNMENTAL STRUCTURE AS WELL AS ECONOMIC TURMOIL AND OUTSIDE PRESSURES. IT HAS BEEN TWICE INVADED AND PARTIALLY OCCUPIED BY THE SOVIET UNION. IN THE POST-WORLD WAR II PERIOD, AN INDIGENOUS COMMUNIST PARTY WITH

SUBSTANTIAL EXTERNAL SUPPORT GREW IN INFLUENCE TO THE POINT WHERE IT WAS ABLE TO PRECIPITATE A GOVERNMENTAL CRISIS IN 1953 WHICH RESULTED IN THE SHAH'S FLEEING THE COUNTRY TEMPORARILY. HE RETURNED SHORTLY THEREAFTER AND BEGAN TO LAY THE BASIS FOR MAJOR ECONOMIC AND SOCIAL REFORM PROGRAMS NOW KNOWN AS "THE SHAH-PEOPLE REVOLUTION." IMPLEMENTATION OF THESE PROGRAMS BROUGHT THE GOVERNMENT AND MODERNIZING ELEMENTS INTO CONFLICT WITH LANDLORDS AND REACTIONARY RELIGIOUS PERSONALITIES AND, IN 1962, RESULTED IN A WEEK OF CONFRONTATION AND PHYSICAL VIOLENCE IN THE STREETS OF TEHRAN. THE GOVERNMENT CARRIED THE DAY AND SINCE THAT TIME ITS REFORM PROGRAMS, WHICH HAVE BENEFITED THE MAJORITY OF THE POPULATION, HAVE HAD WIDE PUBLIC SUPPORT.

4. BEGINNING IN THE LATE 1960S, IRAN HAS ALSO BEEN CONFRONTED WITH A SMALL NUMBER OF EXTREME RIGHTIST AND LEFTIST TERRORISTS OPERATING WITHIN THE COUNTRY. THERE IS EVIDENCE THAT THEY HAVE RECEIVED SUBSTANTIAL FOREIGN SUPPORT AND TRAINING. TERRORISTS HAVE BEEN RESPONSIBLE FOR THE MURDERS OF IRANIAN GOVERNMENT OFFICIALS AND AMERICANS, THE LATTER INCLUDING THREE COLONELS AND THREE CIVILIAN DEFENSE CONTRACTOR PERSONNEL OVER THE PAST THREE YEARS.

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5. THE PRESENT GOVERNMENTAL SYSTEM IS A CONSTITUTIONAL MONARCHY HEADED BY THE SHAH AND A TWO-CHAMBER PARLIAMENT. UNTIL MARCH 1975 IRAN HAD A MULTI-PARTY SYSTEM. THIS WAS THEN REPLACED BY A NEW SINGLE PARTY, THE RESURGENCE PARTY OF THE PEOPLE OF IRAN. ELECTIONS FOR BOTH THE MAJLES (LOWER HOUSE) AND THE SENATE WERE HELD IN JUNE 1975 AND WERE AMONG THE MOST REPRESENTATIVE IN IRAN'S HISTORY. HOWEVER, THESE INSTITUTIONS HAVE LIMITED DECISION-MAKING POWERS WHICH IN THE IRANIAN TRADITION ARE RESERVED TO THE SHAH.

II. LEGAL SITUATION - IRANIAN CONSTITUTIONAL LAW PROVIDES A COMPREHENSIVE SYSTEM OF GUARANTEES OF BASIC HUMAN RIGHTS, COMBINING TRADITIONAL MOSLEM LEGAL PRINCIPLES WITH CODIFICATION LARGELY PATTERNED AFTER THE FRENCH SYSTEM. CIVIL AND CRIMINAL CASES ARE HANDLED WITH FULL GUARANTEES OF CIVIL RIGHTS. THE CIVILIAN COURT SYSTEM WHICH HANDLES THE LARGE MAJORITY OF CIVIL AND CRIMINAL CASES HAS BEEN RECOGNIZED BY OUTSIDERS AS GIVING FAIR TREATMENT TO THOSE BROUGHT BEFORE IT. MOST RECENTLY A TEAM FROM THE INTERNATIONAL COMMISSION OF JURISTS PRAISED CERTAIN ASPECTS OF THIS REGULAR IRANIAN JUDICIAL SYSTEM.

6. ON THE OTHER HAND, THE SAME TEAM RECOMMENDED REFORMS

IN THE HANDLING OF CIVILIANS CHARGED WITH CRIMES INVOLVING STATE SECURITY. THESE RECOMMENDATIONS STEMMED FROM THE FACT THAT SAVAK (ACRONYM FOR STATE ORGANIZATION FOR SECURITY AND INTELLIGENCE) EMPLOYEES ARE EMPOWERED, WITHOUT SUPERVISION OF THE REGULAR COURTS, TO FUNCTION AS MILITARY MAGISTRATES WITH REGARD TO PERSONS THEY MAY DETAIN WHILE PROTECTING STATE SECURITY AND CARRYING OUT OTHER FUNCTIONS. THE GREAT MAJORITY TO THOSE SO DETAINED ARE RELEASED WITHIN A FEW HOURS. OTHERS ARE HELD FOR VARYING PERIODS PENDING MILITARY TRIAL OR RELEASE.

7. CRIMES AGAINST STATE SECURITY OR WHICH INVOLVE DE-
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STRUCTION OF GOVERNMENT PROPERTY OR BODILY HARM TO GOVERNMENT OFFICIALS ARE AMONG THOSE WHICH MUST UNDER IRANIAN LAW BE CONSIDERED BEFORE A MILITARY TRIBUNAL.

8. AS A RESULT OF THIS PROCESS, THERE ARE CURRENTLY IN PRISON ABOUT 2,800-3,500 PERSONS WHO ARE REFERRED TO AS POLITICAL PRISONERS. THESE FIGURES ARE BASED ON A DEFINITION WHICH INCLUDES THOSE CONVICTED OF CRIMES RELATED TO TERRORISM AND OTHER FORMS OF VIOLENCE. IF INSTEAD THE DEFINITION USED IS "PERSONS WHO HAVE BEEN DETAINED, ARRESTED OR PUNISHED FOR THEIR BELIEFS OR OPINION BUT WHO HAVE NEITHER USED NOR ADVOCATED VIOLENCE" THE TOTAL OF POLITICAL PRISONERS IN IRAN IS MUCH SMALLER, PROBABLY ABOUT 100-150. MANY PERSONS IN THAT LATTER GROUP HAVE BEEN CONVICTED BECAUSE OF THEIR MEMBERSHIP IN THE COMMUNIST (TUDEH) PARTY, WHICH IS OUTLAWED IN IRAN.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. INTEGRITY OF THE PERSON

ARTICLE 3: IRANIAN LAW PROVIDES FOR THE PROTECTION OF LIFE, PROPERTY, HOME AND HONOR. THESE LEGAL PROVISIONS ARE GENERALLY OBSERVED. CHARGES THAT THESE LEGAL PROVISIONS ARE NOT PROPERLY OBSERVED ARE GENERALLY MET BY THE GOVERNMENT'S REFERENCE TO ITS EFFORTS TO SUPPRESS THE TERRORIST MOVEMENT AND OTHER THREATS TO NATIONAL SECURITY.

ARTICLE 5: THE IRANIAN PENAL CODE SPECIFICALLY PROHIBITS TORTURE AND PROVIDES SEVERE PENALTIES FOR ANYONE WHO

TORTURES A PRISONER OR ORDERS THE USE OF TORTURE. WHILE WE HAVE NO VERIFIABLE EVIDENCE OF THE USE OF TORTURE, ONE CANNOT DISCOUNT THE REPORTS, PARTICULARLY IN THE CONTEXT OF TERRORIST VIOLENCE, THAT SUCH METHODS LIMITED OFFICIAL USE

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HAVE BEEN USED BY THE IRANIAN POLICE AND SECURITY SERVICES. (FEWER ALLEGATIONS OF TORTURE HAVE, HOWEVER, BEEN BROUGHT TO OUR ATTENTION IN RECENT YEARS THAN IN THE PAST.) THERE IS NO WAY FOR THOSE UNDER PROVISIONAL DETENTION BY SAVAK TO SEEK OUTSIDE REMEDY IF THEY SHOULD BE RECEIVING HARSH TREATMENT. WE HAVE NO INFORMATION INDICATING THAT ANY OFFICIAL HAS BEEN PROSECUTED FOR THE USE OF TORTURE.

ARTICLE 8: IN MOST CASES, IRANIANS CAN OBTAIN AN EFFECTIVE JUDICIAL SYSTEM. HOWEVER, PERSONS IN SAVAK CUSTODY LACK SUCH A REMEDY UNLESS THE SHAH AUTHORIZES APPEAL TO THE CRIMINAL CHAMBERS OF THE COURT OF CASSATION.

ARTICLE 9: COURT ORDERS ARE REQUIRED BEFORE ARRESTS CAN BE MADE EXCEPT IN CASE OF SERIOUS OFFENSES. THE ACCUSED MUST BE, AND NORMALLY IS, INFORMED OF THE CHARGES AGAINST HIM WITHIN 24 HOURS. IN SOME CASES, PRETRIAL CONFINEMENT HAS BEEN LENGTHY. WHILE PROVISIONAL DETENTION MAY BE USED IN CRIMINAL AND CIVIL CASES, IT HAS BEEN MAINLY RESORTED TO IN CASES OF SUSPECTED THREATS TO NATIONAL SECURITY. THERE IS NO IMMEDIATE LEGAL RECOURSE TO THE LATTER TYPE OF PROVISIONAL DETENTION. INTERNAL EXILE IS PERMITTED BY LAW BUT HAS BEEN USED IN RECENT

YEARS ONLY WITH RESPECT TO PRICE FIXING AND CORRUPTION CASES AFTER FULL AND FAIR, USUALLY PUBLIC, TRIALS.

ARTICLE 10: IRANIAN LAW PROVIDES FOR EQUAL TREATMENT BEFORE THE LAW. PERSONS SUSPECTED OF VIOLATING CIVIL AND MOST CRIMINAL LAWS ARE NORMALLY CHARGED SHORTLY AFTER ARREST AND MANY ARE ABLE TO GAIN RELEASE BY POSTING BOND.

ARTICLE 11: TRIALS BEFORE IRANIAN CIVIL AND CRIMINAL

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COURTS ARE GENERALLY PUBLIC AND FAIR AND AFFORD GUARANTEES NECESSARY FOR DEFENSE. SECURITY CASES ARE, HOWEVER, AMONG THOSE TRIED IN MILITARY COURTS. THEY ARE OFTEN IN CAMERA. A MILITARY OFFICER IS ASSIGNED TO ACT AS DEFENSE COUNSEL. DECISIONS BY MILITARY COURTS CAN BE AND ARE APPEALED TO A MILITARY APPELLATE COURT, BUT ARE NOT SUBJECT TO REVIEW BY THE SUPREME COURT OR OTHER CIVIL COURTS UNLESS THE SHAH AUTHORIZES IT. THE SHAH HAS FINAL REVIEW OF ALL MILITARY COURT DECISIONS

AND HAS ON OCCASION LESSENED THE SENTENCES.

B. OTHER IMPORTANT FREEDOMS - WHILE THERE ARE SOME MANIFESTATIONS OF DISCRIMINATION IN IRANIAN SOCIETY, LARGELY RELATED TO TRADITIONAL RELIGIOUS PRACTICE, EQUAL RIGHTS BEFORE THE LAW ARE GUARANTEED. AMONG THE RESULTS OF THE REFORMS INTRODUCED BY THE SHAH WAS THE GRANTING OF EQUALITY TO WOMEN. FREEDOM OF MOVEMENT, BOTH WITHIN THE COUNTRY AND ABROAD, THE RIGHT TO PROPERTY, AND FREEDOM OF THOUGHT AND RELIGION ARE OBSERVED IN IRAN, WHICH HAS A LONG TRADITION OF RELIGIOUS FREEDOM.

6. THE CONSTITUTION PROVIDES FOR FREEDOM OF THE PRESS EXCEPT FOR A PROHIBITION AGAINST PUBLICATIONS HARMFUL TO ISLAM, BUT ALL PUBLISHERS AND WRITERS ARE ALSO REQUIRED TO CONFORM WITH THE PRESS LAW UNDER THREAT OF PUNISHMENT. OBSERVERS FROM THE INTERNATIONAL COMMISSION OF JURISTS HAVE NOTED THAT "IN PRACTICE" FREEDOM OF THE PRESS DOES NOT EXIST.

7. SPECIAL RULES GOVERN THE BEHAVIOR OF THE IRANIAN MILITARY. THERE ARE RESTRICTIONS ON THE PEACEFUL ASSEMBLY OF GROUPS WHICH THE GOVERNMENT CONSIDERS POLITICAL OR SUBVERSIVE.

8. OTHER HUMAN RIGHTS REPORTING
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AMNESTY INTERNATIONAL, IN ITS REPORT FOR 1975-76, COMMENTED ON SEVERAL ASPECTS OF THE HUMAN RIGHTS SITUATION IN IRAN. IT SAID THAT ORGANIZATION "CONTINUED TO STUDY WITH DEEP CONCERN THE TREATMENT OF POLITICAL PRISONERS IN IRAN. THERE HAS BEEN AN IDENTIFIABLE INCREASE IN THE REPRESSION OF OPPOSITION WITHIN IRAN AND AN EXTENSION OF THE ACTIVITIES OF SAVAK ... TO COUNTRIES IN WHICH IRANIANS ARE LIVING ABROAD." ON THE NUMBER OF POLITICAL PRISONERS, AMNESTY INTERNATIONAL "BELIEVES IT TO BE SEVERAL THOUSANDS." ON TORTURE, THE REPORT STATED "THE TORTURE OF POLITICAL PRISONERS DURING INTERROGATION APPEARS TO BE ROUTINE PRACTICE, BUT PRISONERS MAY ALSO BE SUBJECTED TO TORTURE AGAIN AT ANY TIME DURING THEIR IMPRISONMENT." THE REPORT ALSO NOTED THAT "THE NUMBER OF EXECUTIONS IN IRAN HAS BEEN A MATTER OF GREAT CONCERN" TO AMNESTY INTERNATIONAL.

9. THE INTERNATIONAL COMMISSION OF JURISTS PUBLISHED TOGETHER TWO DOCUMENTED REPORTS ENTITLED "HUMAN RIGHTS AND THE LEGAL SYSTEM IN IRAN" IN MARCH 1976. THE PUBLICATION EXPRESSED THE AUTHORS' OPINION THAT SAVAK HAS SYSTEMATICALLY USED TORTURE OVER A NUMBER OF YEARS; IT STATED

THAT NO INDEPENDENT INVESTIGATION OF TORTURE HAS EVER BEEN MADE ALTHOUGH THE SHAH HAD NOT DENIED THAT TORTURE WAS USED. THE REPORTS CHARGED THAT OTHER HUMAN RIGHTS WERE ALSO VIOLATED IN IRAN, E.G., BY ARBITRARY ARREST, DETENTION, AND THE DENIAL OF DUE PROCESS AND A FAIR TRIAL. THE REPORTS PRAISED CERTAIN ASPECTS OF THE JUDICIAL AND PENAL SYSTEMS AND THE WIDE-RANGING ECONOMIC AND SOCIAL REFORMS PROGRAM OF THE GOVERNMENT OF IRAN--THE "SHAH-PEOPLE" PROGRAM--WHICH STARTED IN THE EARLY 1960'S.

10. FREEDOM HOUSE LISTED IRAN AS "NOT FREE."

11. IN 1975, IRAN AGREED TO A REQUEST BY THE INTER-LIMITED OFFICIAL USE
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NATIONAL COMMISSION OF JURISTS TO SEND TWO OBSERVERS INTO THE COUNTRY. IRANIAN AUTHORITIES COOPERATED FULLY WITH THE VISITORS (SEE ABOVE FOR SOME OF THEIR CONCLUSIONS). ALSO IN 1975, THE UN HUMAN RIGHTS COMMISSION REVIEWED ACCUSATIONS OF VIOLATIONS OF HUMAN RIGHTS BY IRAN, BASED ON MATERIAL PRESENTED BY IRANIAN STUDENTS STUDYING ABROAD, AND DECIDED, ON THE BASIS OF INFORMATION BEFORE IT, THAT NO ACTION WAS CALLED FOR IN THE CASE OF IRAN.
CHRISTOPHE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 22-Sep-1999 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: HUMAN RIGHTS, REPORTS
Control Number: n/a
Copy: SINGLE
Sent Date: 04-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE048928
Document Source: ADS
Document Unique ID: 00
Drafter: NEA/IRN:MLGREENE:MRC
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Expiration:
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Format: TEL
From: STATE
Handling Restrictions: n/a
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Line Count: 302
Litigation Code IDs:
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Litigation History:
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Message ID: 3fa201b0-c288-dd11-92da-001cc4696bcc
Office: ORIGIN NEA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: (A) TEHRAN 1987; (B) TEHRAN 1971
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 14-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2964409
Secure: OPEN
Status: NATIVE
Subject: HUMAN RIGHTS REPORTING
TAGS: SHUM, IR
To: TEHRAN
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/3fa201b0-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009